

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JOHN LOGHRY,)	
)	
Plaintiff,)	7:04CV5017
)	
v.)	
)	
STEVE FRANCISCO, and)	MEMORANDUM AND ORDER
STARSEARCH INTERNATIONAL,)	
LLC,)	
)	
Defendants.)	
)	

The defendants Steve Francisco and Starsearch International, LLC's have filed a Motion for Enlargement of Time to Move to Dismiss Amended Complaint, filing 44. The defendants' motion is directed toward extending their deadline for responding to the plaintiff's filing 39 amended complaint. The filing 39 amended complaint was filed during the pendency of defendants' filing 34 motion to dismiss. The filing 39 amended complaint rendered many of the issues raised by the defendants' motion to dismiss as moot, but filing 39 did not correct the plaintiff's lack of standing to pursue this lawsuit due to his September 2002 personal bankruptcy. See filing 42 at p. 2.

Under the court's filing 42 order, the plaintiff was given until August 1, 2005 to either file appropriate motions to amend his complaint by substituting or joining the bankruptcy trustee as a party plaintiff, or to file an amended complaint. In this regard, the filing 42 order addressed the lack of standing evidenced in both plaintiff's original and filing 39 amended complaint. Therefore, although the defendants have moved to extend their deadline for responding to plaintiff's filing 39 amended complaint, the filing 42 order requires the plaintiff to either amend or file motions to correct the standing issues in

filing 39, in the absence of which the case will be dismissed. Accordingly, defendants' motion for enlargement of time to file a motion to dismiss in response to filing 39 is essentially moot. The court has already ruled that filing 39 fails to state a claim for relief.

IT THEREFORE HEREBY IS ORDERED: On the motion for enlargement of time, filing 44, filed by defendants, Steve Francisco and Starsearch International, LLC,

1. The defendants need not answer or respond to the plaintiff's filing 39 amended complaint.
2. The defendants shall answer or otherwise respond to any amended complaint filed hereafter by the plaintiff, if any, within ten days of filing.

DATED this 5th day of July, 2005.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge